

Yeas—Mr. President, Baker, Bell, Flanagan, Ford, Hertzberg, Hillebrand, Parsons, Pridgen, Ruby, Saylor, Tendick—12.

Nays—Bowers, Broughton, Cole, Dohoney, Douglas, Evans, Gaines, Hall, Latimer, Pettit, Pyle, Rawson, Shannon—13.

Senator Flanagan moved to lay the resolution and amendment on the table.

Yeas and nays called for, and the motion to lay on the table lost by the following vote :

Yeas—Mr. President, Baker, Bell, Flanagan, Ford, Hertzberg, Hillebrand, Parsons, Pettit, Ruby, Saylor, Tendick—12.

Nays—Bowers, Broughton, Cole, Dohoney, Douglas, Evans, Gaines, Hall, Latimer, Pridgen, Pyle, Rawson, Shannon—13.

Senator Pettit moved to adjourn to 10½ A. M. Monday.

Yeas and nays called for and the motion to adjourn carried by the following vote :

Yeas—Mr. President, Baker, Bell, Flanagan, Ford, Hertzberg, Hillebrand, Parsons, Pettit, Pridgen, Ruby, Saylor, Tendick—13.

Nays—Bowers, Broughton, Cole, Dohoney, Douglas, Evans, Gaines, Hall, Latimer, Pyle, Rawson, Shannon—12.

So the Senate at 11:40 A. M. adjourned to 10:30 A. M. Monday.

THIRTY-SECOND DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, Monday, Oct. 23, 1871.

Senate met pursuant to adjournment President Campbell presiding. Roll called. Quorum present.

Absent—Senators Fountain, Mills, Pridgen, Rawson, Ruby and Tendick.

Absent, excused—Senator Pickett.

Prayer by the Chaplain.

Journal of yesterday read and adopted.

Message from the House by the Chief Clerk, Mr. Gallant, informing the Senate that the House had agreed to Senate amendments for the following House bills: House bill No. 63, "An act to incorporate the Mutual Aid Society of Houston;" House bill No. 298. "An act to incorporate

the Germania Club of Brenham;" House bill No. 320, "An act to enforce section twenty-one article one of the Constitution;" House bill No. 728, "An act to incorporate the Washington Steam Fire Engine Company No. 1 of Galveston."

Also, returning to the Senate the following enrolled Senate bills: Senate bill No. 369, "An act to facilitate the correcting of surveys and the issuance of patents to locations of land;" Senate bill No. 498, "An act amending 'an act prescribing the times of holding the district courts in the several judicial districts in the State,' approved August 10, 1870;" Senate bill No. 458, "An act to amend 'an act to incorporate the Sabine and Neches Bridge Company,' passed May 18, 1871."

Signed by the Speaker, returned to the Senate and signed by the President in open session.

REPORTS OF STANDING COMMITTEES.

Minority report of the Committee on Public Debt on House bill No. 776.

COMMITTEE ROOM, }
Austin, Oct. 23, 1871. }

Hon. DON CAMPBELL,

President of the Senate:

SIR: The undersigned, a member of the Committee on Public Debt, cannot agree with the report of the majority of the committee recommending the passage, without amendment, of House bill No. 776, entitled "An act supplementary to 'an act to provide for the payment of the public debt of the State of Texas,' approved May 2, 1871."

The first section of the bill confirms the action of the Auditorial Board, created by the act of November 9, 1866, so far as the said board proceeded in issuing bonds and certificates of indebtedness upon the ascertained and audited debt of the State. I am not aware that any evidence was furnished the committee as to the regularity of the proceedings by the Auditorial Board of 1866. This board may have allowed and audited all the legal claims presented to them, or they may have rejected some meritorious claims. There being no appeal provided in such cases, the general confirmation of all the work of the board at this time may operate a hardship on some of the legal creditors of the State. If the action of the board was legal and regular, there is now no necessity for confirming the same. If not legal and regular, then it is not wise and proper at this time to pass the bill confirming and ratifying their action. At all events,

such action should not be had but after the most careful investigation of all the facts in the case.

But a more serious objection to the bill is the fact that it repudiates a portion of the public debt of the State, created before the inauguration of the late rebellion, and not in any manner tainted or affected thereby. I cannot believe the State is prepared to assume the responsibility of such an act, or that she will, without the most mature consideration, consent to bear the stigma which this single act of repudiation will irrevocably fix upon her.

The debt repudiated is small, and was created under the following circumstances: Early in the year 1860, the State having a small force on the frontier, and there being no money in the Treasury to pay either the soldiers or for supplies furnished, began to issue Comptroller's warrants on the Treasury, drawing ten per cent. interest. These warrants having no fixed value in the market, were not readily taken by parties in payment for services or supplies. Major C. R. Johns, then Comptroller of the State, called on Mr. S. M. Swenson, a banker in Austin, to cash a limited amount of these warrants, and suggested that the transaction would be a safe one, as the warrants would be redeemed by the State as soon as the money for taxes came in the following fall. In compliance with this request and promise of early payment, Mr. Swenson cashed sixteen thousand dollars of these warrants—twelve thousand dollars of which was on his own account, and four thousand dollars for J. C. Higgins. As soon as it was known that Mr. Swenson was buying the warrants and paying therefor ninety-eight cents on the dollar in gold, the price he first fixed on them, their market value was established, and soldiers and creditors for supplies willingly took them. When the warrants should have been paid according to the expectation and promise of the Comptroller, there was no money in the Treasury. This all occurred before the act of secession, and the money was advanced by Mr. Swenson before secession was seriously thought of in Texas.

Subsequently, Mr. Swenson availed himself of the act of March 20, 1861, and funded the warrants, both those held in his own right and those held for Mr. Higgins, and received from the State in lieu of his ten per cent. warrants, the eight per cent. gold bearing coupon bonds. The interest on these bonds have been paid up to January, 1870. The total number of bonds issued under this law was sixteen, each of the denomination of one thousand dollars. Of this number four were cancelled by the Auditorial Board provided for by the act of November 9, 1863, leaving now outstanding only twelve thousand dollars, with matured coupons since January, 1870.

This is the debt which the bill reported on favorably by a majority of the committee proposes to repudiate.

While the committee do not favor the Senate with any reasons in their report, for this act of gross injustice to a meritorious creditor of the State and a fast friend of Texas, the argument used in discussing the question before the committee was, that as Mr. Swenson had failed to present his bonds for cancellation, to the Auditorial Board of 1866, and receive in lieu of his eight per cent. gold-bearing bonds the six per cent. currency bonds, he has forfeited all claims against the State by the terms of the law of November 9, 1863. I cannot give my assent to this position. If the State has the power to *compel* a creditor to surrender for cancellation the evidence of his debt, and take a claim in lieu thereof of less value, and drawing a lower rate of interest, she can as easily repudiate the entire debt. Nor do I believe such was the intention of the Legislature when the act of November 9, 1866, was passed, and I am strengthened in this view by the fact that the Legislature subsequently appropriated the money and paid the coupons maturing on these very bonds.

It has been said that, while the bill under consideration treats as void these bonds—they having been issued after the twenty-eighth day of January, 1861, and therefore tainted with rebellion—yet it does not propose to impair the validity of the original debt, it having been created before January 28, 1861. The fallacy of this position is at once seen when we remember that the original warrants have been surrendered, cancelled and fully paid and discharged by the bonds in question. In other words, the warrants are no longer a claim against the State because they have been paid with the bonds; and the bonds cannot be paid because of having been issued after January 28, 1861.

Such is the ready and easy means adopted by the majority of the committee to dispose of this debt. I cannot think the State will consent to this injustice, alike to the creditor and her own credit, she cannot afford to do so. Already she has felt the damaging effect to her credit in the money markets of the Union because of a persistent refusal to allow and pay this small debt according to its terms. The revenue receivable from taxes is insufficient to meet the demands against the Treasury under the present administration. Members of this body are forced to sell their claims for *per diem* and mileage at a discount of from thirty to forty per cent. Such is the credit of the State at home. Abroad it is even worse. Our bonds in New York have no value. The efforts to negotiate the frontier bonds have shown the low standing the State has, financially, in New York. The Governor now asks the issuance, for sale, of two mil-

lions dollars of bonds from which to raise money to meet the annual current expenses of the State government. When it is known in commercial circles that the Legislature, at the same session, provided for the loan, refused to pay an honest and meritorious debt, insignificant in amount as this one is, the credit of the State will be so unmistakably fixed that no man will be found brave enough to invest his money in it; not a dollar of the new debt can be disposed of. The special reasoning that so easily satisfies the majority of the committee will not satisfy capitalists. Before the State can go into the market with any reasonable expectation of making sale of her bonds on favorable terms she must be prepared to show that she has honorably adjusted all other legal and valid claims against her. One act of repudiation is sufficient to permanently ruin her credit. Though her resources may be inexhaustable, and her ability to pay unquestioned, yet if she has acted unjustly towards any portion of her creditors, and shown an ability to repudiate, no responsible man nor well managed institution will touch her securities at any price. Aside, therefore, from the justice of this claim, it would be very bad policy for the State to fail to make provisions for its payment.

The House Committee on Public Debt acted on this claim at the first session of this Legislature in 1870, and reported in favor of its complete repudiation.

The Senate committee declined to interfere with the action of the House committee, and nothing was done that session. His Excellency the Governor, not satisfied with this non-action by the Legislature, sent to this body a special message recommending some prompt action looking to the payment of this class of the public debt. He also wrote to Mr. Swenson on the sixth day of August, 1870, as follows:

"I have had on hand also, for some time, your letters of April 16 and May 21 last, which I should have answered before this, but the Legislature being in session and giving me a great deal of business is my best excuse. I did not, however, neglect to attend to your request concerning the indebtedness of the State to yourself among others. This matter has been brought to the attention of the Legislature verbally in conversations with members, and finally by a special message. I think that before they adjourn (on the fifteenth inst.) the Legislature will adopt some measure that will secure payment of what is justly due by the State. I do not think the Constitution of the State proposes to exclude such claims as yours, and it is my desire that arrangements be made at once to pay you principal and interest."

On the seventeenth day of August, 1870, his Excellency again wrote to Mr. Stevenson as follows :

"The Legislature finally adjourned without providing any effective way of ascertaining the amount of debt due by the State. An act was passed on the subject which was objectionable, and did not become a law. I think, however, that there will not be any difficulty on this subject at the session which commences on the second Monday in January."

Early in the session at which his Excellency thinks there will be no difficulty on the subject of Mr. Swenson's claim, a bill was introduced in the Senate and referred to the Finance Committee, providing for the payment of this debt, and making an appropriation therefor. This bill, though it went to the committee on the fifteenth day of March, 1871, has not yet been reported on, and in all probability never will be.

From this it will be seen that while the Governor has manifested a favorable disposition towards this claim, yet the Legislature have not sustained him in his efforts to secure its payments. The bill under consideration proposes to carry out the policy heretofore acted on by the Legislature; or rather the policy which her committees have forced upon her. I believe the policy wrong, and hence I dissent from the recommendation of the majority of the committee that the bill pass without amendment.

Should the Senate determine to pass the bill, then I recommend the adoption of the accompanying amendments.

Very respectfully submitted,

M. H. BOWERS.

Amendments to House bill No. 776, proposed by the minority of the Committee on Public Debt :

1. Amend the caption by adding thereto the words, "and the act supplemental thereto, approved May 22, 1871." Adopted.

2. Amend section two line two by striking out the words, "at the earliest day practicable," and insert the words, "as soon as there is money enough in the Treasury for that purpose." Adopted.

3. Strike out section three. Lost.

4. Amend section four by inserting after the word "that" in first line, the words "interest bearing bonds." Adopted.

5. Amend section five by adding thereto the words: "*Provided*, that the holder of any interest-bearing bond or bonds, as described in section four of this act, may retain possession of the original of such bond or bonds and the Auditorial Board, created by the act to which this is a supplement, shall cause to be endorsed on said bond or bonds, the word "*genuine*," which endorsement shall be dated and signed by the President of the board, and shall be suf-

ficient to authorize the payment of the principal and interest of such bonds, according to their tenor and effect; and the sum of fifteen thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of any money in the treasury not otherwise appropriated, to pay the interest and principal of such bonds. Adopted.

6. Strike out section six. Lost.

Report read.

[Senator Ruby in the chair.]

11 o'clock A. M.

The hour having arrived for the consideration of the special order, Senate bill No. 395, "An act in regard to the registration of voters," on motion of Senator Flanagan the consideration of the special order was postponed until 11 o'clock A. M. to-morrow.

On motion of Senator Flanagan, the rules were suspended to consider House bill No. 776 and the majority and minority reports thereon.

On further motion, the further consideration of the bill was postponed until after the completion of the morning call.

Reports of Committee on State Affairs:

COMMITTEE ROOM, }
Austin, Oct. 22, 1871. }

Hon. DON CAMPBELL,

President of the Senate:

SIR: Your Committee on State Affairs to whom was referred Senate bill No. 489, entitled "An act to incorporate the Texas Live Stock Insurance Company," after careful consideration, instruct me to report the same back and recommend its passage.

S. W. FORD, Chairman.

COMMITTEE ROOM, }
Austin, Oct. 22, 1871. }

Hon. DON CAMPBELL,

President of the Senate:

SIR: Your Committee on State Affairs to whom was referred House bill No. 771, entitled "An act to incorporate the Star Mining and Transportation Company," have carefully considered the same and instruct me to report it back to the Senate, and recommend its passage, with the following amendments: amend section five, lines eleven and twelve, strike out the words "grants, privileges and exemptions;" in line fifteen insert after the word "the" and before the word "laws" the word "general."

S. W. FORD, Chairman.

Report read and laid over under the rules.

BILLS AND RESOLUTIONS.

By Senator Saylor: a bill (Senate bill No. 512) to be entitled "An act to incorporate the Red River Mining Company, and to lease to said company certain mineral lands of the State of Texas." Read first time and referred to the Committee on State Affairs.

Also, a bill (Senate bill No. 513) to be entitled "An act to reorganize the town of Bryan, in Brazos county, Texas, and incorporate said town as the city of Bryan." Read first time.

On motion of Senator Saylor the rules were suspended and the bill read second time.

On further motion Senate bill No. 513 was referred to the Committee on State Affairs.

By Senator Bell: a bill (Senate bill No. 514) to be entitled "An act to provide for the registration of Comptroller's warrants on the Treasurer." Read first time.

Senator Bell moved to suspend the rules to read the bill a second time. Lost.

Senate bill No. 514 referred to Committee on State Affairs.

By Senator Flanagan: a bill (Senate bill No. 515) to be entitled "An act making an appropriation to defray the printing and contingent expenses of the Twelfth Legislature of the State of Texas." Read first time and referred to Committee on Contingent Expenses.

By Senator Douglas: a bill (Senate bill No. 516) to be entitled "An act to incorporate Charnwood Institute." Read first time and referred to Committee on State Affairs.

Also, a bill (Senate bill No. 517) to be entitled "An act to incorporate the Cherokee Mining Company." Read first time and referred to Committee on State Affairs.

The morning call having been completed, the Senate proceeded to the consideration of House bill No. 776, "An act supplementary to 'an act to provide for the payment of the public debt of the State of Texas' approved May 2, 1871." Read second time.

On motion of Senator Flanagan the Senate resolved itself into a committee of the whole to consider the bill.

[Senator Flanagan in the chair.]

IN SENATE.

Pending the consideration of House bill No. 776, the President resumed the chair for the purpose of receiving a message from the House.

Message from the House by the Chief Clerk, Mr. Gallant, transmitting for concurrence House bills and joint resolutions as follows, to-wit: House joint resolution No. 8, "Joint resolution for the relief of certain parties therein named;" House joint resolution No. 18,

"Joint resolution proposing an amendment to article nine of the Constitution of the State of Texas;" House joint resolution No. 28, "Joint resolution to defray the expenses of printing the reports of all officers who are required to report to the Governor or the Legislature by section five of 'an act regulating public printing,' approved August 13, 1870;" House bill No. 22, "An act to incorporate the Greenville Masonic and Odd Fellows' University, located at Greenville, Hunt county, Texas;" House bill No. 302, "An act to prohibit the sale of spirituous or vinous liquors within two miles of Rockwall Institute, in Kaufman county, Texas;" House bill No. 339, "An act to incorporate the Trespalacios and Red River Railroad Company of Texas;" House bill No. 368, "An act to incorporate the Texas State Medical Association;" House bill No. 369, "An act to incorporate the Southwestern Forwarding and Express Company;" House bill No. 380, "An act to incorporate the Jefferson, Dallas and Brazos Railroad Company;" House bill No. 480, "An act to amend an act entitled 'an act defining the Homestead and other property exempt from force sale in this State,' approved August 15, 1870;" House bill No. 511, "An act to incorporate the Thomaston Grain Mills, Cotton Gin and Manufacturing Company;" House bill No. 532, "An act to incorporate the Garden Valley Seminary;" House bill No. 533, "An act to prevent the issuance of patents upon certificates unless properly authenticated;" House bill No. 535, "An act to amend the first section of 'an act to authorize Clerks of the District Courts, their Deputies and Notaries Public, to take acknowledgments of deeds and other written instruments,' approved August 8, 1870;" House bill No. 538, "An act prescribing the manner of selling lands where the same are owned jointly with others whose lands are not to be sold;" House bill No. 542, "An act to incorporate the Brazos Navigation Company."

COMMITTEE OF THE WHOLE—Resumed.

[Senator Flanagan in the chair.]

IN SENATE.

Senator Flanagan, Chairman of the Committee of the Whole, reported that the committee recommended the adoption of the following amendments, to-wit:

Amend section two, line two, by striking out the words "at the earliest day practicable," and insert the words "as soon as there is money enough in the Treasury for that purpose."

Amend section four by inserting after the word "That" in first line the words "interest-bearing bonds."

Amend section five by adding thereto the words "*Provided*, that the holder of any interest-bearing bond or bonds, as described in section four of this act may retain possession of the original of such bond or bonds; and the Auditorial Board, created by the act to which this is a supplement, shall cause to be endorsed on said bond or bonds the word 'genuine,' which endorsement shall be dated and signed by the President of the board, and shall be sufficient to authorize the payment of the principal and interest of such bonds according to their tenor and effect; and the sum of \$15,000, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to pay the interest and principal of such bonds."

On motion of Senator Ruby, the report of the Committee of the Whole was adopted and the committee discharged.

On motion of Senator Bowers, the amendments reported by the Committee of the Whole were adopted.

On motion of Senator Bowers, the caption of House bill No. 776 was amended by adding thereto the words "and the act supplemental thereto, approved May 22, 1871."

Senator Douglas offered the following amendment which was adopted: In section two, line three, insert the words "not otherwise appropriated," after the word "purpose."

House bill No. 776 passed to a third reading as amended.

On motion of Senator Gaines, the rules were further suspended and House bill No. 776 read third time and passed by the following vote:

Yeas—Mr. President, Bell, Bowers, Cole, Dohoney Douglas, Evans, Flanagan, Ford, Gaines, Hall, Hertzberg, Hillebrand, Latimer, Mills, Parsons, Pridgen, Ruby, Saylor, Tendick—20.

Nays—Baker, Pettit—2.

Senator Pridgen submitted the following reports of Committee on Enrolled Bills:

COMMITTEE ROOM, }
Austin, Oct. 23, 1871. }

Hon. DON CAMPBELL,

President of the Senate:

SIR: Your Committee on Enrolled Bills have examined and find correctly enrolled the following Senate bills, to wit: No. 468, entitled "An act authorizing the County Court, of Marion county to have certain records from other counties transcribed and recorded in said county;" No. 467, entitled "An act to affirm the titles to certain lands in Peters's Colony;" and No. 148, entitled "An act regulating the removal of the disabilities of minors;" and to-day, at 1 o'clock, P. M., presented them to the Governor for his approval.

B. J. PRIDGEN, Chairman.

COMMITTEE ROOM,
Austin, Oct. 23, 1871.

Hon. DON CAMPBELL,

President of the Senate:

SIR: Your Committee on Enrolled Bills have examined and find correctly enrolled the following Senate bills, to-wit: No. 369, entitled "An act to facilitate the correcting of surveys and the issuance of patents to locations of land;" No. 458, entitled "An act to amend 'an act to incorporate the Sabine and Neches Bridge Company,' passed May 18, 1871," and No. 498, entitled "An act amending 'an act prescribing the times of holding the district courts in the several judicial districts in the State,' approved August 10, 1870," and to-day at 12 M. presented them to the Governor for his approval.

B. J. PRIDGEN, Chairman.

Report read and received.

Senator Ruby submitted the following report of the Committee on Engrossed Bills:

COMMITTEE ROOM,
Austin, Oct. 23, 1871.

Hon. DON CAMPBELL,

President of the Senate:

SIR: Your Committee on Engrossed Bills have examined, and find correctly engrossed Senate bills as follows:

Senate bill No. 472, "An act to incorporate the Texas European Steamship and Land Company;" Senate bill No. 443, "An act explanatory of the tax laws of the State of Texas, and to avoid double taxation;" Senate joint resolution No. 45, "Requiring the Comptroller to furnish certified copies of all papers and vouchers in his office pertaining to claims of the State of Texas for moneys paid out for frontier defense before the rebellion, and to furnish a statement of all moneys so paid to the Governor.

Respectfully,

G. T. RUBY, Chairman.

Report read and received.

On motion of Senator Ruby, the Senate at 1:20 P.M. adjourned to 10 A. M. to-morrow.